



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,430	02/28/2002	Glen Edward Gould	8285-502	4865

7590 04/16/2004

Jason C. White
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

EXAMINER

PAK, SUNG H

ART UNIT

PAPER NUMBER

2874

DATE MAILED: 04/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/085,430

Applicant(s)

GOULD ET AL.

Examiner

Sung H. Pak

Art Unit

2874

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 4.Claim(s) rejected: 1-3, 5-12 and 14-21.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


AKM ENAYET ULLAH
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: Applicants' arguments regarding patentability of the pending claims have been carefully reviewed by the examiner, however they do not put the case in condition for allowance. The applicants present 2 grounds of arguments for asserting that the 35 USC 103 rejection is improper. First, it is argued that the Swanson reference "teaches away" from disposing a fiber optic patch inside the housing because Swanson et al teach that one of the desired feature of the invention is to provide an apparatus "that is light in weight and compact and reasonably small in size so that it can readily be stored..." The examiner respectfully points out that disposing the fiber optic patch of Swanson does not make the invention unreasonably large and heavy in weight. Indeed, the reference itself discloses a carrier housing which encloses the entire fiber optic patch units along with transmission optical fibers which is NOT unreasonably large and heavy (Fig. 5-6). Although the reference does not explicitly disclose the use of a water-tight splice housing, the modification of the device to have a water-tight housing, such as that shown in Mullaney, does not make the device 'unreasonably' large in size and weight. Second, it is argued that the Mullaney reference only discloses the use of a fiber optic splice, not a fiber optic patch. The examiner respectfully points out that fiber optic patches and splices are closely related and commonly used in combination in the fiber optic splice art. Further, although Mullaney does not explicitly disclose the use of a fiber optic patch, it is fully within the scope of the reference to use a fiber optic patch, especially in a case where fiber slack is not sufficient. Therefore, the claim rejections based on 35 USC 103 is still proper.


AKM ENAYET ULLAH
PRIMARY EXAMINER